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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 142

STATE OF LOUISIANA, EX REL. WILLIE FRANCIS,
Petitioner,

vs.

E. L. RESWEBER, SHERIFF OF THE PARISH OF ST. MARTIN, LOUISIANA, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA

BRIEF IN BEHALF OF PETITIONER

J. SKELLY WRIGHT,
BERTRAND DE BLANC,
ROBERT E. KLINE, JR.,
JOHN L. INGOLDSBY, JR.,
Counsel for Petitioner.

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BRIEF FOR PETITIONER

I

Jurisdiction

The Supreme Court of Louisiana in an unwritten per curiam opinion denied petitioner's application for writs of certiorari, mandamus, prohibition and habeas corpus. The opinion of the Supreme Court of Louisiana is included in the record filed with this Court, beginning at page 27.

Supreme Court of the United States has authority by virtue of Title 28, Section 344b of the U. S. Code to require that this case be certified to it for review and determination for the reason that the petitioner has been

denied protection of the due process clause of the 14th Amendment of the Constitution of the United States.

On June 10, 1946 this court granted the petition for a writ of certiorari to the Supreme Court of the State of Louisiana.

Statement of the Case

On September 13, 1945 the petitioner, Willie Francis, a Negro, was convicted under an indictment charging the murder of a white man and on September 14, 1945 was sentenced to suffer death in the manner provided by law by the judge of the District Court for the Parish of St. Martin, State of Louisiana (R. 6). At the time of the alleged murder Francis was 15 years old. He was tried and convicted eight days after the indictment was returned against him (R. 5). He was represented at the trial by counsel appointed by the court (R. 2) and the evidence introduced against him consisted primarily of his own alleged confession. No evidence whatever was introduced at the trial in behalf of the defendant (R. 5) and no appeal of any kind was taken to any appellate court asking the reversal of the conviction (R. 24). No stenographic record was taken of the trial so apparently no appeal was anticipated. (For the prosecuting attorney's version of what evidence was introduced at the trial, see Appendix 1.)

A warrant commanding the execution by electrocution of the petitioner on May 3, 1946 was issued by the Governor of the State of Louisiana (R. 6), and Francis was prepared for death. He was shaved in the appropriate places, (top of head, wrists, legs), in order that the connecting parts of the electric chair might be firmly fastened to his body to insure the proper entry of the electric current, and he was given the last rites of his church (App. 3). He was given his last meal. At noon on May 3, 1946, he was marched to the electrocution chamber where he was placed

in the electric chair (App. 2). The connecting apparatus was firmly fitted to his body in the appropriate places; he was strapped to the chair and a hood placed over his eyes (App. 2); he was asked if he had anything to say before he died (App. 3); he was given the final blessing by his priest in the presence of the official witnesses to electrocution (App. 3). On a given signal the current of electricity of sufficient intensity to cause death was applied, and then re-applied to the body of the petitioner. (App. 5). The lips of the petitioner puffed out, and he groaned and jumped so that the electric chair rocked on the floor (App. 2, 3, 4, 5). When it was evident that the electricity was not bringing death to the petitioner, the eletcric switch was turned off, and the petitioner was taken from the chair (App. 2, 3).

The Governor of the State of Louisiana was advised of the petitioner's failure to die in the electric chair, and the Governor ordered a "reprieve" until May 9, 1946 (R. 8). On May 7th, the petition for writ of *habeas corpus* was filed in behalf of Willie Francis in the District Court of the Parish of St. Martin, State of Louisiana, which application was denied the same day (R. 12). On May 9th, a petition for writs of certiorari, mandamus, prohibition and habeas corpus was filed in behalf of Willie Francis in the Supreme Court of the State of Louisiana (R. 17) and on May 14, 1946 a supplemental petition was filed alleging that a second attempt to execute Willie Francis would be in violation of the due process clause of the 14th Amendment of the Constitution of the United States (R. 19). Pending the disposition of the various petitions for writs of certiorari and habeas corpus the execution of Willie Francis has been stayed by the Governor of the State of Louisiana and by this court.

Specification of Errors

SUPREME COURT OF LOUISIANA ERRED IN HOLDING THAT A SECOND ATTEMPT TO ELECTROCUTE PETITIONER WOULD NOT VIOLATE THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

II

SUPREME COURT OF LOUISIANA ERRED IN HOLDING THAT THE PROCEEDINGS HAD IN THE DISTRICT COURT OF THE PARISH OF ST. MARTIN, STATE OF LOUISIANA, IN WHICH THE PETITIONER WAS TRIED, CONVICTED AND SENTENCED TO DEATH WERE "ENTIRELY REGULAR" AND NOT IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

ARGUMENT

I

Supreme Court of Louisiana erred in holding that a second attempt to electrocute petitioner would not violate the due process clause of the Fourteenth Amendment of the Constitution of the United States.

The simple question presented by this specification of error is whether the petitioner, as a condemned man, had the right, under the due process clause of the 14th amendment to the Constitution of the United States to a humane execution producing instant, painless death or may the State of Louisiana, through design or otherwise, torture the petitioner physically and mentally with lingering death. If the petitioner has a right as a condemned man to a humane execution, there has been a denial of such right in this case through the unsuccessful attempt to execute him on May 3, 1946. A further question presents itself in the event this Court finds that there has been a denial

of a right protected by the due process clause of the 14th Amendment. Is the denial of such right in this case a bar to further punishment of any kind or must the petitioner be resentenced by the Trial Court to a punishment less than death?

The issue in this case transcends the question of whether the double jeopardy and cruel and unusual punishment provisions of the 5th and 8th amendments respectively are included in the modern concept of those rights protected by the due process clause of the 14th Amendment. There can be no doubt that the due process clause of the 14th Amendment protects many of the rights from State interference which are likewise protected from Federal interference by the first eight amendments and that the modern tendency is to extend and to increase these rights. *Powell* v. *Alabama*, 287 U. S. 45. This Court has observed this modern tendency by reversing previous decisions which sought to limit the rights protected by the 14th Amendment. *Grosjean* v. *American Press Co.*, 297 U. S. 233. The modern view is that those fundamental rights which inhere in the citizen of a free government are protected by the 14th Amendment against State interference whether or not the identical rights are protected against Federal interference by the first eight amendments. *De Jonge* v. *Oregon*, 299 U. S. 353, *American Jurisprudence*, Vol. 11, page 1089.

In *Twining* v. *New Jersey*, 211 U. S. 78, this Court outlined a test to determine whether or not a right is protected by the due process clause of the 14th Amendment.

> "Is it a fundamental principle of liberty and justice which inheres in the very idea of free government and is the inalienable right of a citizen of such government? If it is and if it is of a nature that pertains to process of law this court has declared it to be essential to due process of law."

Following this test in decision after decision this Court has laid down the rule which is now an accepted and settled principle that the due process clause requires that State action shall be consistent with the fundamental principles of justice and liberty which lie at the basis of our civil and political institutions.

De Jonge v. *Oregon*, 299 U. S. 353, 81 L. Ed. 278, 57 Sup. Ct. 255;

Grosjean v. *American Press Co.*, 297 U. S. 233, 80 L. Ed. 660, 56 S. Ct. 444;

Mooney v. *Holohan*, 294 U. S. 103, 79 L. Ed. 791, 55 S. Ct. 340, 98 ALR 406;

Powell v. *Alabama*, 287 U. S. 45, 77 L. Ed. 158, 53 S. Ct. 55, 84 ALR 527;

Hebert v. *Louisiana*, 272 U. S. 312, 71 L. Ed. 270, 48 ALR 1102;

Truax v. *Corrigan*, 257 U. S. 312, 66 L. Ed. 254, 42 S. Ct. 124, 27 ALR 375.

This Court has seen fit to define due process of law by a system of inclusion and exclusion based on the fundamental principles of justice and liberty above outlined rather than to form a hard and fast rule applicable in all cases. *Brown* v. *New Jersey*, 125 U. S. 172. What is due process depends on circumstances varying with the subject matter and the necessities of the situation. *Moyer* v. *Peabody*, 212 U. S. 78. In other words, the facts of each case determine whether or not there has been a violation of the 14th Amendment and a decision of this Court is restricted to those facts.

This appeal presents for the first time the simple question: has a condemned man a right to die humanely; may a state, through design or blunder, prolong his physical or mental suffering?

While this court has held on various occasions that capital punishment as such is not so offensive to our primary concepts of liberty and justice that it violates the due process clause of the 14th Amendment (*In re Kemmler*, 136 U. S. 436), in all of those cases this court has been careful to point out that the form of capital punishment must be humane; that it must be as painless and instant as possible. *Wilkerson* v. *Utah*, 99 U. S. 130. Plainly written in the decisions of this court is an absolute prohibition against the use of mediaeval forms of torture in accomplishing death. *Wilkerson* v. *Utah*, 99 U. S. 130, *supra*. No one will seriously urge that the due process clause of the 14th Amendment will not prevent a state from indulging in the use of a rack or other forms of lingering death. No one will seriously urge that a state may unduly prolong the mental or physical suffering of a condemned man.

There can be no doubt that in this case the physical and mental suffering of the petitioner has been prolonged and the only question is whether or not he must continue to suffer the impending punishment of death. Assuming that the prolongation of the suffering, the physical and mental torture of the petitioner, is not the result of design or intention on the part of the State of Louisiana; assuming that this torture is the result of blundering on the part of agents of the State of Louisiana, is this petitioner without recourse? Is he deprived of his right to a humane death because the state has made a mistake? Must he pay for the mistakes of the State of Louisiana? Must he continue to suffer and perhaps be further tortured? Is there any guaranty that a second attempt to execute this man will be any more effective than the first? How many tries does the State get before the due process clause of the 14th Amendment can be used to protect the petitioner from further torture? All these are questions which are inherent in

this present appeal and the petitioner submits that there is but one answer. As a human being, as a citizen of the State of Louisiana and of the United States, if he must die, he has a right to die humanely. He cannot be chopped at or picked upon or mentally or physically tortured beyond his endurance. The State of Louisiana had a right to execute this man but this right has been forfeited by subjecting the petitioner to the torture, both mental and physical, of being prepared for death, of being placed in the electric chair, of having electricity applied to his body.

No living being can tell how close to death the petitioner actually came. There can be no doubt that the electric chair had been tested and found in proper operating condition prior to the moment when the petitioner was placed therein. A current of electricity sufficient to cause death was applied. The petitioner jumped. The chair moved. His lips puckered and swelled. What effect that current of electricity had on this man's mind or upon his soul no one will ever know. No one on this earth can tell how close to the hereafter Willie Francis actually was at the time that current of electricity was applied to his body. No living being can appreciate the suffering, the torture, both physical and mental, that Willie Francis has already undergone. No other living being has been so close to death and through no fault of his own brought back into this life so that the State of Louisiana may give a repeat performance.

It is submitted that in this age of enlightened justice, admitting that a man may be brought to death in expiation of a crime, that death must not be one of torture. If the State of Louisiana had a right to execute Willie Francis she was bound at her peril to make his death as instant and painless as possible. By her failure to do so she has forfeited her right to his life.

The question remaining is whether the State of Louisiana, having forfeited her right to the life of Willie Francis, can

now subject him to another form of punishment consistent with our fundamental concepts of justice and liberty as protected by the 14th Amendment.

II

Supreme Court of Louisiana erred in holding that the proceedings had in the District Court of the Parish of St. Martin, State of Louisiana, in which the petitioner was tried, convicted and sentenced to death were "entirely regular" and not in violation of the due process clause of the Fourteenth Amendment of the Constitution of the United States.

The trial of Willie Francis was a farce and a travesty on justice. Counsel was appointed by the court to represent this Negro who was charged with killing one of the white citizens of the town of St. Martinsville. No attack on indictment was filed by petitioner's counsel. No motion for change of venue was introduced at the trial in behalf of the defendant; no evidence was introduced in his behalf at the trial; and no appeal whatever was taken from the judgment of conviction—not even a motion for a new trial. Within eight days after the indictment was returned against him the petitioner was tried, convicted and sentenced to death.

This court can never know the full story of the trial of Willie Francis because *no stenographic record was taken at the trial.* Obviously no appeal was contemplated and there was none. It is submitted that the abysmal darkness which shrouds the trial of Willie Francis speaks no less eloquently than the efforts made in his behalf both before and after that trial by the counsel appointed by the court to represent him.

In *Powell* v. *Alabama,* 287 U. S. 45, this Court had occasion to consider a situation similar to the present case. There the trial court appointed counsel for the accused under cir-

cumstances which made his services ineffective. This court, in reversing judgment of the Supreme Court of Alabama, stated on page 58:

> "'The record indicates that the appearance (of counsel appointed by the Court) was rather *pro forma* than zealous and active.' Under the circumstances disclosed, we hold that defendants were not accorded the right of counsel in any substantial sense. To decide otherwise, would simply be to ignore actualities."

and at page 71

> "In the light of facts outlined in the forepart of this opinion—the ignorance and illiteracy of the defendants, their youth, the circumstances of public hostility, the imprisonment and close surveillance of the defendants by the military forces, the fact that their friends and families were all in other states and communication with them necessarily difficult, and above all that they stood in deadly peril of their lives—we think the failure of the trial court to give them reasonable time and opportunity to secure counsel was a clear denial of due process."

and again at page 71

> "All that it is necessary now to decide, as we do decide, is that in a capital case, where the defendant is unable to employ counsel, and incapable adequately of making his own defense because of ignorance, feeblemindedness, illiteracy, or the like, it is the duty of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law; and that duty is not discharged by an assignment at such time or under such circumstances as to preclude the giving of effective aid in the preparation and trial of the case. To hold otherwise would be to ignore the fundamental postulate, already adverted to, 'that there are certain immutable principles of justice which inhere in the very idea of free government which no

member of the Union may disregard.' Holden *v.* Hardy, 169 U. S. 366, 42 L. Ed. 780, 180 S. Ct. 383 supra."

Other decisions of this court sustaining the right of a defendant to adequate representation by counsel in a serious criminal case are *Brown* v. *Mississippi*, 297 U. S. 278 and *House* v. *Mayo*, Mem. Op. 322 U. S. 710, 64 S. Ct. 1058, 88 L. Ed. 1553. (See also *Downer* v. *Dunaway*, 52 F. (2d) 586.)

The supreme courts of the various states have followed this Court in holding that mere *pro forma* representation by counsel appointed by the court of a defendant in a serious criminal case amounts to a denial of due process. In *Williams* v. *State*, 192 Ga. 247, the Supreme Court of the State of Georgia, in reversing a conviction stated:

> "If appointed attorneys are so ignorant, negligent, or unfaithful that the accused was virtually without representation, or did not in any real or substantial sense have the aid of counsel, he would be deprived of a fundamental right."

In *Wilson* v. *State*, 222 Ind. 63, the Supreme Court for the State of Indiana, also in reversing a conviction, stated:

> "Mere perfunctory action by an attorney assuming to represent one accused of crime, which falls short of presenting the evidence favorable to him and invoking the rules of law intended to prevent conviction for an offense of which the accused is innocent, or the imposition of a penalty more severe than is deserved, should not be tolerated.
>
> "Where there has been such a lack of representation of defendant by counsel as to be equivalent to or worse than no representation at all, and as a result thereof the judge misused the opportunity thus given to impress upon the jury his view that the defendant was guilty and ought to be convicted, appellate court would

remand the cause for such a trial as would not deny but would afford to defendant the protection of his constitutional rights."

Conclusion

For the reasons above set forth petitioner submits that the judgment of the Supreme Court of the State of Louisiana should be reversed and that

1. The petitioner should be set free, or

2. The case should be remanded to District Court for the Parish of St. Martin, State of Louisiana, for resentence to a punishment less than death, or

3. The case should be remanded to the District Court for the Parish of St. Martin, State of Louisiana, for retrial.

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APPENDIX 1

Examination of L. O. Pecot, District Attorney for St. Martin's Parish before Board of Reprieves and Pardons, State of Louisiana.

"Attorney De Blanc: Mr. Pecot, you were the District Attorney who prosecuted Willie Francis in this case?

A. Yes, sir.

Q. Did Willie Francis employ a lawyer?

A. He did not. Judge Simon asked him if he had a lawyer and he appointed attorneys to represent him.

Q. Two attorneys were appointed to represent him because he did not have funds?

A. He did not have sufficient funds at that time.

Q. Do you recall approximately how many witnesses were called to testify against Willie Francis?

A. I don't know but I summoned every possible person connected with this case—connected with the circumstances—I think 12 or 15. Most of them testified as to the confession. There were other facts such as the finding of the pistol and holster. I identified——

Q. Did any witness testify that he saw Willie Francis commit this crime?

A. No, he was alone when he committed it.

Q. Is it not a fact that the only testimony against Willie Francis in this case was the alleged confession of Willie Francis?

A. Say that again.

Q. Is it not a fact that the only testimony against Willie Francis in this case was the alleged confession of Willie Francis?

A. That was the principal part of the testimony—his admission—in addition to these others facts and circumstances, such as the finding of the pistol. The jury convicted him on the evidence they heard.

Q. Were there any witnesses who testified in behalf of Willie Francis?

A. As I understand it, there were none. I don't remember anyone.

Q. Did not Mrs. V— B—, the lady who lived next door to Andrew Thomas, say she was awakened by the shots and saw the car parked outside with the lights on and when Mr. V— B— awakened he did not see anything?

A. She looked outside and, according to the testimony at the coroner's inquest, saw this car outside with the lights on.

Attorney De Blanc: I don't know if it was this car. She saw a car.

Q. Was she ever brought to testify?

A. No.

Q. What about the gun that was supposed to have shot Andrew Thomas?

A. I am glad you brought that up. I want to tell you about that. The sheriff was working as hard as a man can work to connect this case up. He was trying to gather up the threads of the case. He took that pistol, because of a bullet which had come out at the chest which was not very badly damaged—just a little bit flattened. He wanted to send that bullet and pistol to a ballistic expert to seek to identify the bullet and the pistol. The pistol was delivered to Captain Wright, a state policeman, who took it to Colonel Atkins of Baton Rouge and Colonel Atkins sent it to Washington to Hoover and the pistol was lost in transportation. During the war there was a congestion of traffic, mail, etc. We have never heard from that pistol since. All of these other facts, such as the finding of the holster, were upheld. Willie Francis did not tell us about the holster until he had been in jail four months. He came out with it voluntarily. We did not know anything about the holster until just about a couple of weeks before the trial. The pistol had already been sent off and accounted for in that way. Colonel Atkins testified that he had sent it himself, via express,—had a receipt for it.

Q. The pistol was identified by Fuselier.

A. Yes, sir. He told the sheriff what kind of a pistol and it was a Smith and Wesson.

Attorney De Blanc: How long did the trial last, Mr. Pecot.

A. Two days.

Q. Were there any bills of exception taken during the trial?

A. The judge overruled almost every exception that was made.

Attorney De Blanc: That is all.

APPENDIX 2

Affidavit of official witness to execution of Willie Francis, Willie Olivier

STATE OF LOUISIANA,
Paris of St. Martin:

Before me, the undersigned authority, personally came and appeared Willie Olivier, a resident of the Parish of St. Martin, Louisiana, who after being duly sworn, did depose and say:

My name is Willie Olivier. I was duly appointed by Sheriff E. L. Resweber, to officially witness the electrocution of Willie Francis which was scheduled to take place on the 3rd of May 1946. I was in the St. Martin Parish Jail about the hour of 12 noon on the 3rd of May, 1946. The official electric chair had been installed in the said jail. Around 12 noon Willie Francis, the condemned negro, was brought in the jail. He was strapped to the chair and the officials in charge of the electrocution made everything ready to electrocute him. The priest ministered unto him a[illegible] then the hood was placed before his eyes. Then a few mi[illegible]tes after 12 noon the electrocutioner turned on the switch and at that very moment that the switch was turned on, Willie Francis' lips puffed out and he groaned and jumped so that the chair rocked on the floor. Then the condemned man yelled: "Take it off. Let me breath." The switch was turned off and the condemned man was taken from the chair. During the at-

tempted electrocution I saw present there: Desire Judice, Ignace Doucet, Sidney Dupois, Dr. Bernard de Mahy, the Coroner, Dr. Yongue, Luke Laviolette, and two colored priests.

WILLIE OLIVIER.

Witnesses:
ALFRED VINCENT.
MRS. BERTRAND DE BLANC.

Sworn to and subscribed before me on this 24th day of May, 1946 in the presence of the abovenamed witnesses who also signed with him.

Done at St. Martinville, La.

BERTRAND DE BLANC,
Notary Public,
Parish of St. Martin, State of La.
State of La.

My commission is issued for life.

APPENDIX 3

Affidavit of Father Maurice L. Rousseve relating to execution of Willie Francis

STATE OF LOUISIANA,
Parish of St. Martin:

Before me, the undersigned authority, personally came and appeared Rev. Maurice L. Rousseve, a resident of the Parish of St. Martin; Louisiana, who after being duly sworn, did depose and say:

My name is Rev. Maurice L. Rousseve. I was the Chaplain who officiated at the attempted electrocution of Willie Francis on the 3rd. of May, 1946. I arrived at the St. Martin Parish Jail at about 15 minutes to 12 noon on the 3rd. of May, 1946. I was given immediate access to speak to Willie Francis who had been brought from the Iberia Parish Jail and at that time was in one of the cells of the St. Martin Parish Jail. I remained with him until he was brought and placed on the electric chair which had been

installed in the jail for the execution. Willie Francis was composed and fully resigned to his fate. After he was strapped to the chair the Sheriff of St. Martin Parish asked him if he had anything to say about anything and he said nothing. Then the hood was placed before his eyes. Then the officials in charge of the electrocution were adjusting the mechanisms and when the needle of the meter registered to a certain point on the dial, the electrocutioner pulled down on the switch and at the same time said: "Goodby Willie". At that very moment, Willie Francis' lips puffed out and his body squirmed and tensed and he jumped so that the chair rocked on the floor. Then the condemned man said: "Take it off. Let me breath." Then the switch was turned off. Then some of the men left and a few minutes after the Sheriff of St. Martin Parish, Mr. E. L. Resweber, came in and announced that the governor had granted the condemned man a reprieve. Then Willie Francis was handcuffed and taken to his cell and I stayed with him a little while and left.

Among those present at the attempted electrocution, I say: Dr. Yongue, the Coroner, Dr. Bernard de Mahy, Sheriff E. L. Resweber, Chief of Police Claude Thomas, Rev. M. Williams the other Chaplain.

REV. MAURICE ROUSSEVE.

Sworn to and subscribed before me this 25th. day of May, 1946, at St. Martinsville, La.

BERTRAND DE BLANC.
Notary Public.

APPENDIX 4

Affidavit of Ignace Doucet, witness to the execution of Willie Francis

STATE OF LOUISIANA,
Parish of St. Martin:

Before me, the undersigned authority, personally came and appeared Ignace Doucet, a resident of the Parish of St. Martin, who after being duly sworn did depose and say:

My name is Ignace Doucet, a resident of the Parish of St. Martin, Louisiana. I witnessed the attempted electro-

cution of Willie Francis on May 3, 1946. I saw him strapped in the chair and saw them place the hood before his eyes. I saw the electrocutioner turn on the switch and I saw his lips puff out and swell, his body tensed and stretched. I heard the one in charge yell to the man outside for more juice when he saw that Willie Francis was not dying and the one on the outside yelled back he was giving him all he had. Then Willie Francis cried out "Take it off. Let me breath." Then they took the hood from his eyes and unstrapped him.

During the morning of May 3rd. I saw them make ready the chair and the mechanisms. The electrician was working on the mechanisms all morning. I saw him take it all down and put it up again. Then about 11 o'clock A. M. he told me that everything was working perfectly and he quit fooling with it.

Incidentally, after the attempted electrocution, the electrocutioner told Willie Francis that although he did not kill him that time, the next time he would kill him if he had to use an iron bar to do it.

All this is what I saw and heard myself on the 3rd. of May, 1946. This boy really got a shock when they turned that machine on.

IGNACE DOUCET.

Sworn to and subscribed before me, this 30th day of May, 1946.

BERTRAND DE BLANC,
Notary Public in and for the Parish of St. Martin, Louisiana.

APPENDIX 5

Affidavit of Harold Resweber, official witness to execution of Willie Francis

STATE OF LOUISIANA,
Parish of St. Martin:

Before me, the undersigned authority, personally came and appeared Harold Resweber, a resident of the Parish of

St. Martin, Louisiana, who after being duly sworn, did depose and say:

My name is Harold Resweber, I was duly appointed by Sheriff E. L. Resweber, to officially witness the electrocution of Willie Francis which was scheduled to take place on the 3rd. of May, 1946. I was in the St. Martin Parish Jail at the hour of 12 noon on the 3rd. of May, 1946. The official electric chair had been installed in the said jail. Around 12 noon Willie Francis, the condemned negro, was brought in the jail and he was placed in the electric chair. He was strapped to the chair and the officials in charge of the electrocution made everything ready to electrocute him. The priest ministered unto him and then the hood was placed in front of his eyes. Then the electrocutioner turned on the switch and when he did Willie Francis' lips puffed out and he groaned and jumped so that the chair came off the floor. Apparently the switch was turned on twice and then the condemned man yelled: "Take it off. Let me breath." Then the switch was turned off and the condemned man was taken from the chair.

During the attempted electrocution I saw present there; Ignace Doucet, Sidney Dupois, Dr. Bernard de Mahy, the Coroner, Dr. Yongue, two Moreau fellows, Willie Olivier, and two colored priests.

HAROLD RESEWEBER.

Sworn to and subscribed before me this 23rd day of May, 1946, at St. Martinville, La.

BERTRAND DE BLANC,
Notary Public, Parish of St. Martin, State of La.

My commission is issued for life.

APPENDIX 6

Affidavit of Sidney Dupois, Official Witness to Execution of Willie Francis

STATE OF LOUISIANA,
Parish of St. Martin:

Before me, the undersigned, personally came and appeared Sidney Dupois, a resident of the Parish of St. Martin, Louisiana, who after being duly sworn did depose and say:

My name is Sidney Dupois. I was duly appointed by Sheriff E. L. Resweber, to officially witness the electrocution of Willie Francis which was scheduled to take place on the 3rd. of May, 1946 between the hours of 12 noon and 3 P. M.

I was in the St. Martin Parish Jail at 12 noon of the 3rd. of May, 1946. The official electric chair had been installed in the said jail. A few minutes after 12 noon Willie Francis, the condemned negro, was brought in and he was placed in the said electric chair. He was strapped to the chair and all necessary preparations were made to electrocute the said Willie Francis. The priest came up to Willie Francis and asked him if he had anything to say and he did not answer. The priest had him to kiss the cross and the band was placed over his eyes. The man in charge of the electrocution asked if everything was all right and then he turned on the switch. At that very moment Willie Francis' lips puffed out and he grunted and made the chair jump. The switch was kept on a little while and then Willie Francis yelled: "Take it off. Let me breath". Then the switch was turned off and the condemned man was unstrapped and taken off the chair and brought into the next room. He was then taken from the jail. Among those I saw there during the attempted electrocution were: Dr. Bernard de Mahy, the Priest, Dr. Yongue, the Coroner, Ignace Doucet, Harold Resweber, a Moreau fellow and his

father, and two other fellows from New Iberia, whose names I do not know. Also I saw Willie Olivier.

SIDNEY J. DUPOIS.

Witnesses:
L. P. BIENVENUE.
MRS. SIDNEY J. DUPOIS.

Sworn to and subscribed before me this 23rd day of May, 1946 at St. Martinville, La.

BERTRAND DE BLANC,
Notary Public, Parrish of St. Martin, State of La.

My commission is issued for life.

(7293)